

APR 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

YUEN REN LIN, a.k.a. Yong Rong Lin,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 06-74922

Agency No. A029-126-780

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Yuen Ren Lin, a.k.a. Yong Rong Lin, a native and citizen of China, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his third motion to reopen deportation proceedings. Our jurisdiction is governed by

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen or reconsider, *Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002), and we deny in part, and dismiss in part the petition for review.

The BIA properly construed Lin's third motion to reopen as a motion to reconsider, and did not abuse its discretion in denying the motion to reconsider because the motion failed to identify any error of law or fact that would justify granting relief. *See* 8 C.F.R. § 1003.2(b)(1); *see also Iturribarria v. INS*, 321 F.3d 889, 895-96 (9th Cir. 2003).

Lin contends that his removal proceedings should be reopened on the basis of changed circumstances because he has married a U.S. citizen and seeks to apply for adjustment of status. However, we lack jurisdiction to review this contention because he failed to raise this issue before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

This court also lacks jurisdiction to review Lin's challenge to the BIA's denial of his second motion to reopen because the petition for review is not timely as to that order. *See Andia v. Ashcroft*, 359 F.3d 1181, 1183 n.3 (9th Cir. 2004) (per curiam).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.